

# STATE OF COLORADO

## OFFICE OF THE STATE ENGINEER

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## POLICY MEMORANDUM 95-2

**SUBJECT: ACCEPTANCE OF STATEMENTS OF BENEFICIAL USE ON NON-EXEMPT RESIDENTIAL WELLS**

### Basis for policy

Section 37-90-137(3)(a)(I), C.R.S. (1990 & 1993 Supp.), requires that all permittees provide the State Engineer with evidence that the water from such well has been put to beneficial use within the life of the well permit. In order to provide evidence of use, permit holders are required to submit evidence of such use in the form of a Statement of Beneficial Use to the State Engineer within the life of the permit. It has been the policy of the State Engineer to physically field inspect all wells to verify the claims included on such statement prior to acceptance of the Statement of Beneficial Use and validation of the permit. Such information is valuable in determining the amount of ground water applied to use within the state.

The problem with this requirement on lower production wells is that it often requires numerous field inspections by the division offices and the related costs associated with such inspections, in both time and money, is beyond the Division's capabilities given current funding and staffing. Also, from a public relations standpoint, the Division appears bureaucratic in requiring field inspections of wells of this type prior to acceptance of the permit when we cannot complete the process in a timely manner. This also causes the Division to protest many rulings of the referee based upon jurisdictional issues when the permit holder has submitted the Statement of Beneficial Use, but is waiting on the Division to physically inspect the well.

In order to resolve these problems the State Engineer finds the following reasons in total as justification for this policy:

1. Wells covered in augmentation plans have accounting mechanisms that monitor use of these wells. These accounting forms are submitted to the Division offices as required by the decrees.
2. The true measure of the water right is its legal, physical and actual use under the permit and not the claims on the Statement of Beneficial Use.

3. By signing the Statement of Beneficial Use form, the permit holder is verifying that the claims are true and that pursuant to section 24-4-104(13)(a), C.R.S., false statements on the form constitute perjury in the second degree.
4. The amounts of water are relatively small (not exceeding 50 gallons per minute).
5. The public demands less bureaucratic and more efficient, user friendly, government.

For the above stated reasons, this policy is found to be necessary and needed.

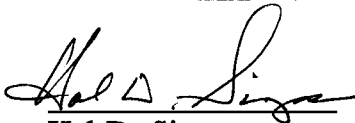
#### Policy

1. Acceptance of Statements of Beneficial Use on non-exempt residential wells not exceeding 50 gallons per minute, gravel pit wells and contaminant recovery wells will no longer be contingent upon field verification if the following conditions are met:
  - a. The well is covered in a court approved plan for augmentation or State Engineer approved substitute supply plan.
  - b. The ground water was placed to use during the life of the permit.
  - c. For wells not exceeding 15 gallons per minute, acceptance of Statement of Beneficial Use without a field inspection is contingent upon proper indication of the pump installer (or indication that the permittee was the pump installer) and a claim within the permitted amount of water. If no Pump Installation Report is in the file and these conditions are met, the pump installer indicated will be notified by the State Engineer of the need for the report as required by the Rules and Regulations for the Board of Examiners of Water Well Construction and Pump Installation. However, the Statement of Beneficial Use will still be accepted. For clarification purposes, if nothing is indicated on the Statement of Beneficial Use regarding the pump installer and no Pump Installation Report is in the file or there is a question of actual use, a field inspection may still be required.
  - d. For wells exceeding 15 gallons per minute but not exceeding 50 gallons per minute, a Pump Installation Report must be on file even if the pump was installed by the permittee. However, the Statement of Beneficial use will be accepted without field inspection for the lesser amount (within the permitted amount) indicated on either the Pump Installation Report or the Statement of

Beneficial Use. For example, if the Pump Installation Report indicates an amount of 30 gallons per minute and the Statement of Beneficial Use claims 40 gallons per minute, the Statement of Beneficial Use will be accepted for 30 gallons per minute only. If the Pump Installation Report indicates an amount of 40 gallons per minute and the Statement of Beneficial Use claims 30 gallons per minute, the Statement of Beneficial Use will be accepted for 30 gallons per minute only.

- e. The Statement of Beneficial Use for all wells covered under this policy must be properly signed.
2. Pursuant to this policy, all Division field offices are instructed to review pending Statements of Beneficial Use and return them to the Denver office care of Rich Bell for immediate processing.

Dated the 27<sup>th</sup> day of February, 1995.

  
Hal D. Simpson  
State Engineer